



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	Department of Agriculture and Consumer Services
VAC Chapter Number:	2 VAC 5-350
Regulation Title:	Rules and Regulations for the Enforcement of the Virginia Commission Merchants Law
Action Title:	Retain
Date:	September 5, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

This regulation specifies certain requirements for tobacco auction market operators licensed under the Commission Merchants Law. The regulation: (1) establishes record keeping requirements; (2) prescribes accountability for tickets and tobacco sales bills; (3) identifies permitted alterations to tickets and tobacco sales bills and requires signatures of persons authorized to make alterations; (4) prescribes disposition of rejected sales by farmers or buyers; and (5) clarifies the role of the licensee when acting on behalf of the farmer.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

This regulation is authorized by §3.1-721 of the Code of Virginia (1950), as amended. While the wording of this section appears to be discretionary, the section does authorize the Board of Agriculture and Consumer Services to promulgate such regulations for the enforcement of Chapter 26, Article 2, Commission Merchants. The regulation gives clear, concise instructions to the licensee on the actions necessary to comply with the Virginia Commission Merchants Law.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

The agency received no public comment on this regulation as the result of the Notice of Periodic Review published in *The Virginia Register of Regulations* on June 18, 2001, to provide notice of opportunity to comment on this regulation pursuant to Executive Order Number Twenty-five (98). No informal advisory group was formed for the purposes of assisting in the periodic review.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The specific and measurable goals of this regulation are:

- (1) The protection of the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth, and

- (2) The reduction or elimination of the instances of inaccurate accounting of agricultural products sold by auction market operators licensed as commission merchants.

Tobacco auction market operators serving as agents for the farmer on the basis of a fee or commission are required by law to be licensed as commission merchants. The licensing and bonding of commission merchants provides protection to the farmer by assuring prompt and accurate payment for their product.

This regulation is clearly written and easily understood by individuals and entities affected.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

The agency has considered and rejected repealing this regulation. In the absence of the regulation, Virginia producers would have no other recourse against a commission merchant who does not properly pay or account for tobacco handled for the producer.

Retaining the current regulation represents the least burdensome alternative to commission merchants while retaining a mechanism for Virginia producers to be assured they will be paid for their tobacco. The regulation serves to clarify provisions within the Code of Virginia and provides guidance to individuals affected.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency recommends that this regulation be retained in its present form.

Family Impact Statement

Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

Unless otherwise discussed in this report, this regulation has no impact upon families.